

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HEIDI RYAN,

Plaintiff(s),

vs.

WAL-MART STORES, INC., et al.,

Defendant(s).

Case No. 2:15-cv-00319-MMD-NJK

ORDER DENYING MOTION TO
COMPEL

(Docket Nos. 35, 44)

Pending before the Court is Plaintiff's motion to compel. Docket Nos. 35 (sealed), 44 (redacted). Defendant filed a response in opposition, and Plaintiff filed a reply. Docket Nos. 41, 45. Defendant signed a certification pursuant to Fed. R. Civ. P. 26(g) that the surveillance footage in existence has been produced. *See* Docket No. 41-3 at 2-3. The Court cannot compel Defendant to produce materials that do not exist. *See, e.g., Incorp Servs., Inc. v. Nevada Corp. Servs., Inc.*, 2012 WL 3066473, *3 (D. Nev. July 27, 2012).¹ Accordingly, the motion to compel is hereby **DENIED**. Defendant's request for sanctions pursuant to Rule 37(a)(5)(B), *see* Docket No. 41 at 14-17, is also hereby **DENIED**.

IT IS SO ORDERED.

DATED: July 28, 2015



 NANCY J. KOPPE
 United States Magistrate Judge

¹ Plaintiff's contention that the video footage was destroyed or not preserved, *see, e.g.*, Docket No. 45 at 5, is not properly before the Court at this time.